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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,070	07/02/2003	Robert Charles Monsen	CISCO-7984	6556
49715 7590 10/10/2007 CISCO - THELEN REID BROWN RAYSMAN & STEINER LLP P.O. BOX 640640 SAN JOSE, CA 95164-0640			EXAMINER BLACK, LINH	
			ART UNIT 2163	PAPER NUMBER
			MAIL DATE 10/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/614,070	Applicant(s) MONSEN ET AL.	
	Examiner LINH BLACK	Art Unit 2163	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-15 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-15 and 20-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Claims 9-25 are pending in the application. Claims 9, 11-15, 20-24 are independent claims. Claims 1-8 and 16-19 are cancelled.

#### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 9, 11, 15, 20-24 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, and 9 of U.S. Patent No. 6606628. Although the conflicting claims are not identical, they are not patentably

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distinct from each other because these claims teach nonvolatile memory with blocks which comprise a header portion including first, next, last memory blocks, flags etc...

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogawa (US 6115799).

As per claims 9, 13, 20-21 and 24, Ogawa teaches

scanning the a nonvolatile memory medium to find a first memory block containing a header indicating that the first memory block is the first memory block of an existing file stored on said nonvolatile memory medium – col. 5, line 55 to col. 6, line 34; col. 7, lines 9- 27.

finding a next memory block using a next block pointer stored in the header of the first memory block, if the existing file comprises more memory blocks than the first memory

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block, said existing file being opened upon completion of said finding – col. 6, lines 16-61.

As per claims 10 and 25, Ogawa teaches repeating said finding step until either all memory blocks comprising said file have been found or an error condition occurs – col. 21, line 54 to col. 22, line 14.

As per claims 11, 14, and 22, Ogawa teaches

scanning a nonvolatile memory medium in sizes of one predetermined logical block, said nonvolatile memory medium storing an existing file – col. 5, line 55 to col. 6, line 34; col. 7, lines 9- 27.

for each logical block, reading a block header containing a magic number; testing the magic number to determine whether the logical block is a valid block or a free block, and if the logical block is a valid block, performing a comparison of a file name encoded within the block header with a specified file name to be opened – col. 5, line 55 to col. 6, line 61; col. 13, lines 14-23.

testing a flag within the block header to determine whether the logical block is the first block of the existing file, if the comparison produces a match – col. 6, lines 13-61; col. 21, lines 29-50.

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returning to said scanning step with the next logical block until either the comparison produces a match or all the blocks have been tested, thereby indicating an error condition, said existing file being opened if said comparison produces a match – col. 21, line 54 to col. 22, line 14.

As per claims 12, 15, and 23,

scanning a nonvolatile memory medium in sizes of one predetermined-sized logical block, said nonvolatile memory medium for storing a new file - – col. 5, line 55 to col. 6, line 34; col. 7, lines 9- 27.

for each logical block, reading a block header containing a magic number; testing the magic number to determine whether the logical block is a valid block or a free block, and if the logical block is a free block, modifying its block header to comprise a valid magic number, the name of the new file to be opened - col. 5, line 55 to col. 6, line 61; col. 13, lines 14-23.

flags indicating whether the logical block is either the first block or the last block of the new file - col. 6, lines 13-61; col. 21, lines 29-50.

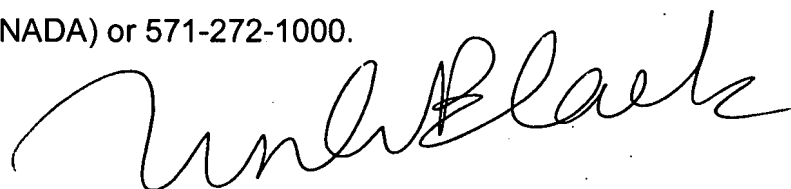
returning to said scanning step with the next logical block until either said testing step has identified a free block or all the blocks have been tested, thereby indicating an error condition, said new file being opened if said testing step has identified a free block – col. 10, last paragraph; col. 19, last paragraph; col. 21, line 54 to col. 22, line 14.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINH BLACK whose telephone number is 571-272-4106. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on 571-272-1834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Linh Black', with a stylized, cursive script.

LINH BLACK  
Examiner  
Art Unit 2163

September 27, 2007